



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 4, 2010

Date of Meeting: November 9, 2009

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:32 p.m., on Monday, November 9, 2009, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

Regina Romero	Vice Mayor, Council Member Ward 1
Rodney Glassman	Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Robert E. Walkup	Mayor

Absent/Excused:

Nina J. Trasoff	Council Member Ward 6
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Staff Members Present:

Mike Letcher	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Chewee Hughley, Water of Life Metropolitan Community Church, after which the Pledge of Allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 562, dated November 9, 2009, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Vice Mayor Romero announced the Ward 1 Office, on November 20, 2009, was partnering with Terry Goddard, Arizona Attorney General, to present a Senior Anti-Crime University. Space for the workshop was limited and reservations were required.

Vice Mayor Romero also announced the Ward 1 office, on December 12, 2009, was hosting a holiday event, "Viva David Tineo, Vivan Los Tamales". The event was a preview to the Tucson Museum of Art's retrospective featuring the artwork of David Tineo and a tamale contest for neighborhoods.

- b. Council Member Glassman announced the Ward 2 office was collecting nominations for their annual "Good Neighbor Recognition Award."

Council Member Glassman invited citizens to join him at Udall Park on December 12, 2009, for the dedication and naming of the "Laszlo Veres Amphitheater."

Council Member Glassman also announced a memo had been distributed requesting the City Manager to provide a Fiscal Year 2010 budget update to the Mayor and Council at the November 24, 2009, meeting.

- c. Council Member Uhlich announced the Ward 3 office, on November 10, 2009, was hosting a conversation with Shannon Scutari on Smart Growth and Infill, Transit Orientated Development, and update on the Phoenix-Tucson light rail for anyone interested in attending.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 563, dated November 9, 2009, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Letcher, City Manager, announced the Parks and Recreation Department, on November 14, 2009, was hosting their Fourth Annual "Family Festival in the Park" at Reid Park. The department was to showcase its facilities and programs offered and also had family activities and entertainment available throughout the day, including free admission to the Zoo and Edith Ball Adaptive Recreation Center. The event would also include a display of the 2009 Capitol Christmas Tree as it stopped on its way to Washington, D. C.

Sean McBride, Assistant City Manager, provided an update on a recent initiative the City had implemented. He said one of the things Mr. Letcher wanted to bring to the organization was a culture of inclusiveness and teamwork among every level. To that end, the Advise 10-4 Committee was created, consisting of ten employees, to solicit input from all employees in every department at every level to provide feedback on a variety of issues in three month increments. The first topic was for employees to provide input on the challenging budget issues the City faced. They were to look at ways to use resources to provide high quality services with less, how to be more efficient, and suggestions on expenditure cuts.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 564, dated November 9, 2009, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

New License(s)

1. Boca, Ward 6
828 E. Speedway Blvd.
Applicant: Bryan Thomas Mazon
Series 12, City 70-09
Action must be taken by: November 9, 2009

Tucson Police Department and Revenue Department have indicated the applicant is in compliance with city requirements.

Planning & Development Services Department has indicated the applicant is not in compliance with city requirements.

City Clerk's Office has indicated the applicant is not in compliance with city requirements.

This item was considered separately.

2. Nimbus American Bistro N' Brewery, Ward 2
6464 E. Tanque Verde Rd.
Applicant: Robert Brian McMahon
Series 12, City 71-09
Action must be taken by: November 7, 2009

Staff has indicated the applicant is in compliance with city requirements.

3. Seoul Kitchen Korean BBQ, Ward 2
4951 E. Grant Rd., #115
Applicant: Chong Kyu Knosp
Series 12, City 72-09
Action must be taken by: November 12, 2009

Staff has indicated the applicant is in compliance with city requirements.

4. Prince Pizza & Family Restaurant, Ward 3
1763 E. Prince Rd.
Applicant: Andrew Hyeon Yun
Series 12, City 73-09
Action must be taken by: November 19, 2009

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument in Favor Filed

5. Burger City, Ward 6
5350 E. Broadway Blvd., #128 & #130
Applicant: Fletcher Jay McCusker
Series 12, City 74-09
Action must be taken by: November 19, 2009

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a new license application, "In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license". (A.R.S. Section 4-201)

Person/Location Transfer(s)

6. Mulligan's Sports Grill, Ward 4
9403 E. Golf Links Rd.
Applicant: Mark Richard Baker
Series 7, City 75-09
Action must be taken by: November 21, 2009

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a person and location transfer, Mayor and Council may consider both the applicant's capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

c. Special Event(s)

1. Southern Arizona Aids Foundation, Ward 6
1303 E. University Blvd.
Applicant: Michele Lorraine Bart
City T94-09
Date of Event: November 22, 2009
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.

2. Downtown Tucson Partnership, Ward 1
101 N. Stone Ave.
Applicant: Brandi Renee Haga
City T96-09
Date of Event: November 21, 2009
(Celebrating cycling & a healthy lifestyle - El Tour de Tucson)

Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no agent change(s) scheduled for this meeting.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Trasoff absent/excused), to forward liquor license applications 5b2 through 5b6 and 5c1 and 5c2 to the Arizona State Liquor Board with a recommendation of approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

1. Boca, Ward 6
828 E. Speedway Blvd.
Applicant: Bryan Thomas Mazon
Series 12, City 70-09
Action must be taken by: November 9, 2009

Tucson Police Department and Revenue Department have indicated the applicant is in compliance with city requirements.

Planning & Development Services Department has indicated the applicant is not in compliance with city requirements.

City Clerk's Office has indicated the applicant is not in compliance with city requirements.

Roger W. Randolph, City Clerk, announced this item was being considered separately at the request of Vice Mayor Romero.

Vice Mayor Romero said Council Member Trasoff asked her to pull the item for several issues, but first asked if the applicant was in attendance. There was no one.

Vice Mayor Romero said, seeing that the applicant was not in attendance, she would move that the liquor license application be denied. She said the applicant had not paid the liquor license application fees to the City Clerk's Office nor contacted them despite the fact that the application was being brought before the Mayor and Council, the site was within three hundred feet of a residential area and church and the applicant had not offered any neighborhood mitigation.

It was moved by Vice Mayor Romero, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Trasoff absent/excused), to forward liquor license application 5b1 to the Arizona State Liquor Board with a recommendation of denial.

6. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

- a. J. Lisa Jones thanked Mike Letcher, City Manager, for his outstanding presentation of information about Proposition 200. She also expressed her disappointment that Proposition 400 did not pass.

7. CONSENT AGENDA – ITEMS A THROUGH E

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

A. REAL PROPERTY: AUTHORIZATION TO ACQUIRE REAL PROPERTY AT 730 SOUTH WILMOT ROAD FOR THE EXPANSION OF TUCSON FIRE DEPARTMENT STATION 9

1. Report from City Manager NOV9-09-567 WARD 2
2. Resolution No. 21432 relating to the Tucson Fire Department; authorizing the City Manager to acquire by negotiation certain real property located at 730 South Wilmot Road; and declaring an emergency.

B. PARKS AND RECREATION: ADOPTION OF THE HISTORIC FORT LOWELL PARK MASTER PLAN AND THE PRESERVATION PLAN FOR THE FORMER ADKINS PARCEL (CONTINUED FROM THE MEETING OF OCTOBER 27, 2009)

1. Report from City Manager NOV9-09-569 WARD 2
3. Resolution No. 21431 relating to parks and recreation; approving the Historic Fort Lowell Park Master Plan and Preservation Plan for the former Adkins Parcel at Fort Lowell Park; and declaring an emergency.

Roger Randolph, City clerk, announced this item was continued from the meeting of October 27, 2009.

C. PARKS AND RECREATION: NAMING THE MORRIS K. UDALL PARK AMPHITHEATER THE “LASZLO VERES AMPHITHEATER”

1. Report from City Manager NOV9-09-570 WARD 2
2. Resolution No. 21433 relating to parks and recreation; authorizing and approving naming the Morris K. Udall Park Amphitheater the “Laszlo Veres Amphitheater;” and declaring an emergency.

D. INTERGOVERNMENTAL AGREEMENT: WITH THE TOWN OF ORO VALLEY AND THE METROPOLITAN DOMESTIC WATER IMPROVEMENT DISTRICT FOR THE CAP WHEELING COST OF SERVICE STUDY

1. Report from City Manager NOV9-09-573 CITY-WIDE AND OUTSIDE CITY
2. Resolution No. 21434 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson, the Town of Oro Valley, and the Metropolitan Domestic Water Improvement District for Joint Funding of a Cost of Service Study for Wheeling Central Arizona Project Water; and declaring an emergency.

This item was considered separately at the request of Council Member Uhlich.

E. APPROVAL OF MINUTES

1. Report from City Manager NOV9-09-574 CITY-WIDE
2. Approval of minutes for the regular meeting of the Mayor and Council held on May 12, 2009.

It was moved by Vice Mayor Romero, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Trasoff absent/excused), that Consent Agenda Items A through E, with the exception of Item D, which was considered separately, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM D

D. INTERGOVERNMENTAL AGREEMENT: WITH THE TOWN OF ORO VALLEY AND THE METROPOLITAN DOMESTIC WATER IMPROVEMENT DISTRICT FOR THE CAP WHEELING COST OF SERVICE STUDY

1. Report from City Manager NOV9-09-573 CITY-WIDE AND OUTSIDE CITY
2. Resolution No. 21434 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson, the Town of Oro Valley, and the Metropolitan Domestic Water Improvement District for Joint Funding of a Cost of Service Study for Wheeling Central Arizona Project Water; and declaring an emergency.

Council Member Uhlich stated, as she noted earlier during the study session, she did not want the item to be passed without commenting on what an extraordinary step it was for regional water cooperation. She said it was an intergovernmental agreement between the City of Tucson, Oro Valley, and Metro Water, to explore the potentials for wheeling water through the City's infrastructure to those additional jurisdictions. She said it could hold tremendous benefit, not only for Tucson Water ratepayers, but also for the residents served by Oro Valley and Metro Water. She also said it demonstrated, through sound intergovernmental agreements and regional cooperation, how the City could better serve the community with regard to water service.

It was moved by Council Member Uhlich, duly seconded, that Consent Agenda Item D be passed and adopted and the proper action taken.

Mayor Walkup asked if there were any further comments. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, and Leal;
Vice Mayor Romero and Mayor Walkup

Nay: None

Absent/Excused: Council Member Trasoff

Consent Agenda Item D was declared passed and adopted by a roll call vote of 6 to 0.

8. PUBLIC HEARING: (C9-09-07) FELDMAN'S NEIGHBORHOOD PRESERVATION ZONE, R-1, R-2, R-3 TO NR-1, NR-2, AND NR-3, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 575, dated November 9, 2009 was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request to rezone residential zones in the Feldman's Neighborhood to include the Neighborhood Preservation Zone (NPZ) Overlay. He said the Zoning Examiner and staff recommended approval, subject to certain conditions. He asked if the applicant or representative was present.

Roger W. Randolph, City Clerk, announced staff would first make a brief presentation.

Ernie Duarte, Planning and Development Services Department Director, stated the item before the Mayor and Council was the rezoning and proposed ordinance for the Feldman's Neighborhood Preservation Zone (NPZ). He said the Mayor and Council initiated the Feldman's NPZ; and it was the first neighborhood to go through the NPZ in October 2007. The NPZ Enabling Ordinance was adopted by Mayor and Council in June 2008, and the NPZ process included the creation of a neighborhood-specific Design Guidelines Manual. He said a committee of resident homeowners, renters, non-resident property owners, and developers was formed to assist in the creation of the Design Manual. The Zoning Examiner heard the rezoning case on August 13, 2009, and recommended approval subject to the adoption of rezoning conditions requiring review of permits with the Design Manual.

Mr. Duarte said projects affected by the NPZ overlay included projects that were visible from the street that also required a building permit and multi-story residences proposed adjacent to existing single-story residences. Projects not affected by the NPZ included interior renovations or other alterations such as door, window replacements, and roof replacements, which were the type of improvements that typically did not need a building permit. He said the review required historically compatible design with surrounding areas based on the Design Manual and the recommendation of an appointed

design professional, who was an architect with historic preservation experience. He added that multi-story residences proposed adjacent to existing single-story residences must provide privacy mitigation. He said there was a Mayor and Council successful rezoning petition that had been submitted in the south quadrant that exceeded twenty percent by area, so a three-fourths majority Mayor and Council vote was necessary to adopt the rezoning ordinance.

Mr. Duarte concluded his comments stating that as of four o'clock that afternoon, they had received an additional fifty-nine new protests. They were able to verify that twenty-three were actually new protests and thirty-six were duplicate protests, so they had not calculated the protest level. They still would need a super-majority vote in considering the ordinance.

Mayor Walkup announced the public hearing was scheduled to last no more than one hour, and speakers were limited to five-minute presentations.

Laura Tabili, representing Rincon Heights Neighborhood Association, said the neighborhood had a resolution to present in support of the NPZ. She proceeded to read their resolution:

"Whereas, stable central Tucson Neighborhoods are the key to sustainable future for the City of Tucson as a whole, and whereas uncontrolled mini-dorm development has the effect of undermining owner occupancy, thus the stability of central Tucson neighborhoods, and whereas the character of Tucson central district is imperiled by random demolition of its historic fabric and erection of architecturally unsympathetic mini-dorms, and whereas, our experience in Rincon Heights is that mini-dorms, as opposed to other types of student housing particularly conduce to underage drinking, fighting and other illegal anti-social activities. And whereas mini-dorm development has the effect of undermining property values in this vicinity, eroding central Tucson tax base as well as robbing adjacent owner occupiers of the value of their property, and whereas, Sugar Hill, as parts of Feldman's used to be called, is one of the only two historically Black neighborhoods in Tucson. And the loss of its physical fabric of houses, shops and churches would be a significant blow to the preservation of Tucson's history and culture, we resolve – Rincon Heights Neighborhood Association, resolve – go on record in support of Feldman's Neighborhood in their pursuit of the NPZ and other measures to control mini-dorm development."

Ms. Tabili said she wanted the Mayor and Council to know what it was like to live near a mini-dorm. She said the mini-dorm in question was not next door to her or across the street from her; it was across the street, around the corner, and across the other street, but she could still hear it in her bedroom at night between 12:30 a.m. and 1:00 a.m. She emphasized she was not the person who was the most affected. The person who was most affected was the person who lived next door, and had lived there all his life. This person was awakened between three and four o'clock in the morning Easter Saturday, the one before Easter, three times by loud fistfights in his back yard with profanity. She said he was so tired he could not go to Mass in the morning, and that was just one example.

Ms. Tabili said he was afraid to call the police for fear of retaliation, which was a common problem, and finally someone else called in a complaint when they heard someone in the front yard yelling. She said that was the kind of attitude, as well as behavior, which seemed to be conducted to by this type of development. She stated she was happy that the Mayor and Council and the City were taking measures to curb this type of development and urged them to approve the ordinance.

Russell Krone, Attorney representing Michael Goodman, said they previously provided the City with their position paper in opposition to the enactment of the rezoning, which was twofold. He said the requested rezoning would violate the City's zoning authority because zoning authority was derived from the State and cities must strictly comply with zoning statutes; attempts to exercise zoning authority without complying with the statutes was void.

Mr. Krone said the statutes were clear. Regulations were required to be uniform in each class or use of land throughout the City to assure that owners were all treated the same. He said there were only four exceptions to the rule. The City could enact an overlay zone for floodplain zoning, for districts characterized by adverse topography or manmade conditions, age-specific community zoning and historical significant zoning. He said, despite the attempt to squeeze the Neighborhood Preservation Zone (NPZ) in the Feldman's Neighborhood into a historical zoning exception, the proposed rezoning at issue regulated far beyond historical character of the Feldman's Neighborhood; and in fact, as the previous speaker stated, the real attempt of this zoning was to stop a particular type of development, not preserve the historical character of the Feldman's Neighborhood. He said it delved into areas of building size, privacy mitigation, incentives and compatibility reviews, all which were beyond the scope of historical character of Feldman's Neighborhood. If the Feldman's NPZ rezoning was approved by the Mayor and Council, it would be an exercise of the zoning authority without complying with the statutory requirements and would be subject to legal challenge.

Secondly, Mr. Krone said, only twenty percent of the homes in the Feldman's Neighborhood were owner-occupied. Eighty percent of those homes were rentals or investment properties. He said he mentioned this to illustrate that it was a small number of neighborhood activists and Development Services Department employees who were the catalyst for the proposed rezoning. The vast majority of property owners in this neighborhood owned the property for the purpose of profiting from it.

Mr. Krone said Proposition 207, the *Private Property Rights Protection Act*, was overwhelmingly passed by Arizona voters in November 2006 and was now the law of the State. It required that payment of compensation be made to any owner whose fair market property value was devalued by the enactment of a Land Use law and this was one of those situations. Even if the rezoning survived a legal challenge and was upheld, the rezoning the Mayor and Council were being asked to approve would diminish the property owners' fair market value in a number of ways. Mr. Krone said it would limit architectural design and requirements, which were not applicable under R-1, R-2, and

R-3 regularly throughout the City. He said it would also impose additional review processes, which were not required under the existing zoning.

Mr. Krone stated the NPZ ordinance failed to provide a waiver or enforcement from exemption as was allowed under the Proposition 207 law; thus, the City's only alternative if the request is approved, would be to pay compensation to injured property owners. The City Manager's report to the Mayor and Council acknowledged this liability, but nonetheless passed on the recommendation of staff to approve the rezoning. He said the Mayor and Council were getting bad advice. Recent remarks in the newspaper by Feldman's Design Manual Committee members acknowledged this liability. He said, Clint Bullock of the Goldwater Institute, provided a letter to the Mayor and Council explaining the liability and contemplated helping affected property owners file their claims against the City.

Mr. Krone said, because Proposition 207 failed to provide a funding source for compensation, the City and its citizens would end up paying this compensation. He added the City was already facing the prospect of paying damages under Proposition 207, in a similar matter, when it enacted a demolition ordinance, which was voided for having been improperly enacted. Again, he said the Mayor and Council were getting bad advice. He said the citizens of Tucson were distressed at what they perceived as financial irresponsibility, during these difficult economic times. The liability that the City was going to face was a needless expense, which should not be imposed on the citizens of Tucson, when the Mayor and Council could easily avoid it by not approving the rezoning. He urged the Mayor and Council to vote against the rezoning.

Pastor Lovoina Huff said he has lived at his current address for the past seven years, and recently recovered from alcohol and drug abuse. He said he moved to his current address where he began to serve the homeless, giving them food. The need became great that he began to do it in such a manner that the homeless really depended on him, because he was getting the food from the Community Food Bank.

Pastor Huff said based on the rezoning; he would no longer be able to serve there after seven years. He said he was not familiar with R-1 zoning at first, but knew that the Zoning officials contacted him when he first started, and never did anything about it. He said he assumed it was okay for him to continue doing what he was doing. After seven years of feeding the homeless, he now fed over three hundred people. He said the homeless were coming to get the food that the Community Food Bank gave him to give to the homeless. He hoped to be able to continue doing that. He said he did not know if the Mayor and Council could help him or not, but he said he hoped to continue to give the homeless food. He said they have kept the place clean and the property was Zone 3, or three quarters in from the road. He asked what he would have to do get the property zoned to a C-1, or maybe a zone where he could continue to serve the homeless.

Council Member Uhlich asked the City Manager and Mr. Duarte to follow up and provide Pastor Huff information on regulations around soup kitchens.

Josie Milliken said she and her husband lived in Feldman's Neighborhood on North First Avenue. She said their home was the first and only home they had ever bought, lived in the neighborhood for over three years, and supported the Design Manual. The obvious reasons they supported it was that they wanted to continue enjoying their neighborhood without the noise and general disruption that occurred in certain pockets as a result of housing that facilitated noise, crime, disturbance, and disruption. They also wanted their property to be worth something. Lastly, she said they saw the value in the historic character of the neighborhood. She said she understood that the decision of the Mayor and Council would not be based on what she wanted, and that as a homeowner she represented the minority.

Ms. Milliken said there was more value on a larger scale to preserving the character of Feldman's. She asked the Mayor and Council to consider that Feldman's Neighborhood was one of the few downtown neighborhoods that contained affordable housing for those wishing to buy homes. She said her husband worked at the University of Arizona (U of A) and she worked at Pima Community College (PCC). Feldman's Neighborhood was right in between, and was the only neighborhood that was close and within their price range. Ms. Milliken said, by failing to take measures to preserve what was left, which was what the Design Manual did, it would prevent people who worked in and around downtown from being able to buy homes close to where they worked.

Ms. Milliken said secondly, preserving the historic integrity of the Feldman's Neighborhood was environmentally responsible. Existing structures were utilized rather than torn down and disposed of. Also, Feldman's was one of the few affordable neighborhoods where those who worked at the U of A, PCC, or downtown, in other words, those who were not students and who would not live in mini-dorm structures, could live without having to commute and clog up city streets.

Ms. Milliken said thirdly, preserving historic homes was an aim supported by recent legislation and stimulus funding. The United States Government was encouraging historic preservation rather than discouraging it for the reasons she outlined above and more. She said the current trend in responsible urban development was not to tear down and build new; it was to preserve, recycle, and restore. She said preservation was progress.

Lastly, Ms. Milliken said historic structures maintained their value more than the structures that replaced them. While encouraging developers and development seemed attractive now, having historic homes in Feldman's in the future proved to be more valuable to Tucson's character, economy, charm, and progress than structures like mini-dorms. She said too easily, issues like this were boiled down into simple developer versus preservationist arguments; and too often people shied away from recognizing the complexities imbedded within issues. She said the issue of the Design Manual did not boil down to a simple developer versus preservationist stance. She urged the Mayor and Council to recognize the Design Manual as something that was distinct, and recognize the issue it addressed with the distinct kind of attention it required.

Ms. Millikan commented as seen and as police reports showed, the mini-dorm construction in the Fourth Avenue and Adams Street and Fourth Avenue and Lee Street pocket of Feldman's, illustrated how drastically architecture and planning directly facilitated behavior and attitudes. She said architecture influenced behavior, and clearly, unregulated design and development had created a disruptive and destructive dynamic in Tucson, which was something Tucson did not need more of. She said she was sure everyone was in agreement with that.

Ms. Millikan asked the Mayor and Council to look at the historic homes that remained in Feldman's, homes with wide open front porches that were, and often still were, treated as living rooms and places to build relationships with neighbors; homes that had cozy floor plans and no wasted space. She asked the Mayor and Council to think about what the architectural trends of the past represented: community, communication, support, modesty, and frugality. When the attention turned away from preservation and towards unregulated development, those values that benefited the City in culture and society, would be ignored and lost. She said they could not afford to lose those values, which was why preserving the integrity of the neighborhood was important. She said the Design Manual was one small step, and urged the Mayor and Council to support it.

Jennifer Wakefield said she was a resident of Tucson, lived in Feldman's Neighborhood, and echoed Ms. Millikan's comments. She said her opinions were very similar in terms of preserving the historic value of her neighborhood. She also wanted to speak on two other issues that she thought came up in this debate and during the Zoning Examiner's hearing. One issue was the need for additional student housing for the U of A. She said she actually took a walk that afternoon around her neighborhood, which was an activity she immensely enjoyed and did on a regular basis. She said she recorded seeing seven rental signs within four blocks north and four blocks west of a development she believed Mr. Goodman was working on at 735 East Helen Street. She said they were at 1214 North Second Avenue, 1221 North Euclid, 1218 North Euclid, 745 East Drachman, 655 East Drachman, and 610 to 628 East Drachman. She said one of those properties actually advertised free rent.

Ms. Wakefield said, in addition to the historic nature of her neighborhood which she wanted to preserve, she was concerned that they had an actual over-supply of rental properties available in the Feldman's area. She said the continued development of mini-dorms that put a lot of students in one small area, diminished the ability of landlords to turn a profit. She referred to a comment made earlier that eighty percent of the owners in Feldman's owned investment property and rental property. She said those were seven examples of properties within a four-block radius of current development were not turning any profit at all. She reiterated that her concern was that the mini-dorm would be built and they would still have the seven properties on the market in the middle of the school year that were not rented, on top of having the new mini-dorm.

Ms. Wakefield said this issue was a primary concern for her as a homeowner who fully intended to continue to own her house, whether she continued to occupy it for the next fifteen or twenty years, she could not say, but she said she intended to hold onto it.

She was very concerned about her ability to make a profit with a rental property in Feldman's, should this type of development continue when there was already a supply of rental properties. Ms. Wakefield added she bought her house knowing full well that she was completely surrounded by student rentals. There were students on both sides of her property and behind them. She said she was very happy to be in a student-friendly community, enjoyed living around students, and thought she thought had a strong relationship with her neighbors who were students. She stated there had been some comments to suggest that this was an anti-student effort, to which she disagreed. There were many who were owner-occupiers in the Feldman's Neighborhood who absolutely enjoyed living near students, and appreciated the energy and enthusiasm of students, but were primarily concerned about their property value and historic nature of the neighborhood. She said they were not trying to kick any students out.

Annette Felix stated she and her husband had lived in their house for thirty-one years, since 1978, before Feldman's was a neighborhood association. She said a group of residents back then, worked very hard on researching the history of the homes in the area and applied and received historic status for the homes in the neighborhood. Through the years, people had come and gone in the neighborhood. When they moved in, many of the residents were elderly and sold to younger couples looking for a central location to raise their families. She said they were one of those couples and raised two sons in their house.

Ms. Felix said, she was at the meeting to urge the Mayor and Council to support the Design Manual for the area and other neighborhoods that were interested in creating one to help preserve a piece of Tucson's past. She said that not everyone wanted to live in central Tucson, nor did they want to live in an older home. But many people sought those areas out and those kinds of homes in Tucson and around the country. She said, for most of the thirty-one years they have lived there, there had been few changes in the neighborhood. New homeowners moved in, some had renovated, some had not. But in the last several years, some of the older, historic homes were being bought up, demolished, and replaced with flimsy stick and stucco structures. She said the new buildings, which did not look like homes to her; were not similar in size or design compared to the existing homes in the neighborhood.

Ms. Felix said she was a visual person, and pointed to photos she had taken of the area. She said the first photo was of her home, and jokingly called it a tract home of the twenties because they were all very similar in the neighborhood. The second photo was of other homes on her block. She said previous speakers spoke to the kinds of designs that were there, which were very typical of what was in the neighborhood.

Ms. Felix said the next set of photographs showed property around the corner from her house, at 735 North Helen. She said what was there was a home similar to hers. She apologized for not having a photo of the home because it was demolished a couple months ago, and new construction had begun. The two photos she had showed homes on both sides of the new construction. She said as the Mayor and Council could see, the new construction was not quite in the same vein as the older home was. She said she

spoke with a workman, working at the site, and asked how many bedrooms were in the new home. He said five, maybe more, and included five bathrooms in the R-1 single family residence. She said she did not know of too many families that would want to rent that property with a three-car garage and no yard for children to play in. The house filled the whole lot, side-to-side, front-to-back; so she said she could only assume that it would be rented by individuals unrelated, and not a family as R-1 zoning stated.

Ms. Felix referred to the last two photos she took from her back yard, stating they were impacted by the new structure. She said gone were the wonderful sunrises breaking over the Rincon's that they used to enjoy while sitting on their back porch drinking coffee. She said she could only imagine how disheartening this monstrosity was to the people who lived on either side, because half of their day of daylight was being consumed by the new structure shadowing over it. Ms. Felix urged the Mayor and Council to support the Design Manual. She said it was too late for some of the many wonderful historic properties they had in the neighborhood because they were already struck down and replaced with stick and stucco. She said it was not too late to save some of the other homes or at least, if they were going to be replaced, have the replacements look like what was destroyed.

Mark Henson said he was a resident of the Feldman's Neighborhood and was in favor of the NPZ overlay. He stated that when he moved to Tucson, he thought he was acting responsibly by purchasing an existing home in an older, urban neighborhood. He was told that City government, as well as the University, wanted the neighborhood preserved. Being a good steward of a historic property, and the City having already made a huge investment in his neighborhood through grant money and property tax reductions, he said he felt he should have every expectation that the City would enforce and enhance its zoning regulations. He said the diversity of his neighborhood was one of its strong points - different ages and ethnicity. Now developers were in the R-1 areas demolishing existing historic designated properties and replacing them with five bedroom mini-dorms to rent to multiple unrelated individuals. He said the neighborhood was losing its diversity and unique character. This was clearly contrary to the intent of the *Land Use Code*. With further demolition, the neighborhood was at risk of losing its historic status; along with that, the value of their homes would be diminished. He asked that this zoning overlay be enacted, plus whatever else that could be done to protect the value of his home.

J. Lisa Jones said she lived in the Jefferson Park Neighborhood and was speaking as a neighbor to Feldman's. She has lived in her home for 31 years when she moved there in 1978, was a U of A student and ended up buying her little two-bedroom house. She said, she personally witnessed some history in the neighborhoods. Over the years, her neighborhood, Jefferson Park, and Feldman's had changed considerably, so she fully supported Feldman's NPZ overlay Design Manual. She said she was very much against "anything goes-ism" in neighborhoods.

Ms. Jones said, before she moved to Tucson to come to graduate school, she lived in Santa Fe for three and a half years. She said she was in love with Santa Fe. She came

to Tucson because she was accepted to graduate school. Upon arriving, she was absolutely appalled by the City of Tucson. Compared to Santa Fe, it seemed to her as if Tucson had been bulldozed. She said it seemed as if the historical architecture had been stripped in so many places, in so many ways. She said when she was able to move into her little house, that had its own history since it was built in 1949, she came to love her neighborhood because of its diversity and its little single two-bedroom, three-bedroom houses. She said Feldman's and Jefferson Park were a lot alike, until Feldman's became very much a mish-mash and eighty percent renters. She added she was not against renters, and she rented the majority of her life before buying her house.

Ms. Jones said she wanted to talk a little bit about the history of 1949, and its part of Tucson. She said it was part of the little two and three bedroom houses. She said when the GI's came back from World War II; it was the American Dream. It was not just about tearing down a building here and there, but about a whole era of very real, personal dreams that affected family after family. Families could buy these little houses with the help of the GI Bill. She said these houses were really a part of Tucson's history. She urged the Mayor and Council to take a ride through Feldman's and Jefferson Park, not pass by, but really take a ride through and look at the neighborhoods. She said it was absolutely chilling to the bone to see in a block, one, two, three small family homes, small homes with a front and back yard, and then suddenly see this monstrosity and know that three months before, there was another little house that belonged in the neighborhood right there. Somebody who simply had the money and the legal wherewithal, could come in with bulldozers and bulldoze not just the architecture, but the history itself, the cactus, the trees, and suddenly there was this humongous thing that impacted the whole neighborhood. She said not only was the architecture impacted, but also a whole way of being.

Ms. Jones reiterated that she was not against students. She said she was a student for a very long time herself. She asked the Mayor and Council not to be intimidated by Proposition 207 passed in 2006, but to find their courage and not to be bullied. She said they should do what was legally necessary and right to protect the neighborhoods and pass the Feldman's overlay zone (NPZ). She said it was really important and mattered for the quality of their lives; and the quality of Tucson.

Marc Simon, Snell & Wilmer, said he was present on behalf of the Beacon Group, which was the largest provider of employment and training services of persons with disabilities in Southern Arizona. They were a charitable 501(c)3 organization that served the community in many ways, for many decades. He said, he was present to ask for consideration for Beacon's property, located on Drachman Street near Stone Avenue, between Drachman and Adams Streets, and west of Seventh Avenue. It was a parcel of property that was all the way at the most westerly extreme of the proposed overlay zone, the most westerly commercial extreme of the entire zone. He said he believed the Beacon property would not have been included in this zone if it had been looked at independently. It was included because it had four very small narrow parcels which were in the middle of its facility which were zoned R-2 and was the only reason it was picked up.

Mr. Simon said he was asking that the Beacon property be excluded from the zoning and believed it was not necessary that they be a part of the regulations in question, particularly since they were surrounded on three sides by commercial development and buffered on the other side to the north, which was across the street, by heavy tree line. He said to the east was the U of A Planetary Science Building and Beacon's own facility, which was now operated as a charter school, was on their C-1 land. The land to their west was C-1 and C-2 and the land to their north was across the street and was shielded by a tree line. The land to the south was owned by another charter school, which he believed was Pima Partnership.

Mr. Simon said there was no contributing property to the Beacon lots that were in the middle of the Beacon facility. Under the ordinance and how contributing properties were defined for its benefit to the historic district, there was none with respect to Beacon's property and there was no immediately adjacent residential use. He said there was one home on their property, but it was not occupied and had always been a part of the Beacon facility. He said he also wanted to mention that, in going through the Design Manual, it really was something, where page after page, section after section, it was tailored and designed for residential use, and standards for residential protection and things that could be done to residential structures. It was really not geared toward a commercial property or charter school type property facility that had been used as an educational institution for so long as the Beacon facility was. He said the application would seem to be awkward, cause unpredictable results, and could be unsettling to Beacon in its efforts to preserve the value of its property and future alternatives.

Mr. Simon said that in discussions with City staff, they believed that staff had no objection to the exclusion of this property, because of the common sense and logic of it, having been surrounded as it was by commercial use, and not really impacting any other properties. He said he had a letter that was in the record, and believed it was Attachment H in the Mayor and Council materials. He said he also gave the City Clerk some colored drawings that showed the zoning around the parcel. He said he hoped he gave a clear enough picture so that, if and when, this item went forward, the Mayor and Council would take Beacon's request into consideration and hopefully exclude them from the ambit of the ordinance.

Mike Goodman said, after listening to all the stories, he thought that the best solution was to close the U of A; or ship all the students out to Avra Valley. He said there was no question that some students were a nuisance; but there were laws against disturbing the peace. The laws were never enforced by the police. He said it was the police's duty to put a fast stop to all the disturbances in the neighborhood. All they had to do was to take one of those kids and make them spend four hours in jail, and he promised, that within thirty days, there would be no more red-tagging, or it would be greatly reduced. He said landlords could not police those disturbances themselves. He said, if the Mayor and Council had tenants someplace having parties, what they would do was probably follow the *Landlord Tenant Act*, give them notice and allow them stay for another few months and let them keep abusing the neighborhood. He said their hands were tied.

Mr. Goodman said that of all the protesters in the neighborhood, none of them woke up in the morning after they bought their property, to see kids walking to school or the big buildings, and asked if that was the university they moved nearby. The fact remained that there were forty thousand students and about six thousand dormitory rooms, with another fifteen hundred to two thousand coming on. There were thirty-three thousand kids that were driving to the university, anywhere from zero to eight, nine miles away, burning fifteen thousand gallons of gas a day. He said the students needed to be by the university and the other people could be if they wanted to, but most chose not to.

Mr. Goodman said long before he came on the scene, every year all of Feldman's and Jefferson Park neighborhoods had been turning higher and higher percentages of tenants. The reasons were clear. Because of students, it was not a desirable place for families, and the other reason was that, from an economic point of view, the properties were worth more to a landlord than they were to a homeowner. The evidence was that the properties were all being bought by landlords and investors because tenants could afford to pay a higher amount for monthly housing expense in the form of rent than homeowners could afford to pay in that neighborhood in a mortgage payment.

Mr. Goodman commented he wanted to bring up some lies and truths. He said it was said recently, he thought by Donna Lett, that Goodman rented all those apartments by the room. He stated, out of forty-six units, there was not one that was rented by the room. He said another comment made, by either Donna Lett or somebody else, was that these units could not be easily converted to occupancy by families. Mr. Goodman stated that was just the opposite of the truth. The reason he started building the units was because about six years ago, he read that the University was going to increase the space of the building square footage on campus by about twenty-three thousand square feet, most of it in the medical sciences, which was north of Speedway Boulevard. He said that was when he realized there really was not adequate modern housing for people who earned more than a moderate income, and he said they should have an opportunity to live by the University.

Mr. Goodman said his typical unit was two thousand square feet, with four bedrooms upstairs, everyone had their own bathroom plus a guest bathroom downstairs, a three-car garage, ten-foot high ceilings, full laundry, and all granite. Nicer units could not be found. He clarified that there were no eight to ten bedrooms. He said in research he conducted, there was only one example in the literature he found generated by the City's Planning Department on the definition of a mini-dorm. He noted someone said that there were people building eight to ten bedroom houses. He said he never built an eight to ten bedroom house, but had built a couple of six bedroom houses, but the vast majority, ninety percent, was four bedroom houses. He stated there were other six bedroom houses in the University area that were perfect for families, if families would move in or buy.

Mr. Goodman commented on remarks made that "mini-dorms" hurt the values in the University area. He said the opposite was true. He purchased about forty properties in Feldman's because before he ever started buying, it was the cheapest place to buy.

The neighborhood was already mostly tenants; and the reason he bought so many was because he paid more money. He said he did not cause the prices to come down.

Mr. Goodman concluded his comments stating that in his opinion, the City Attorney had not given the Mayor and Council the best information. When the demolition ordinance was being considered, Michael McCrory, City Attorney's Office, said the ordinance was not affected by Proposition 207. There was a recent court decision saying that the City Attorney was wrong; it was not moot as far as Proposition 207. He said when he had his Board of Adjustment hearing on the Third Avenue and Elm Street property, the City Attorney said he was not to consider vested rights; it was not a matter. He said he went all the way and the City appealed to the Supreme Court but was turned down. At the Appeals Court, the panel said it was wrong, bad information. Mr. Goodman said there was only one thing that counted, which was the pocketbook for the City when it came to paying for claims for loss of value.

Jarrett Reidhead said he lived in Pima County and owned property inside the City limits, in the Feldman's Neighborhood off of the Tyndall Avenue and Lee Street area. He said he was present to voice his opposition to the overlay rezoning for many reasons. Most importantly, he did not think it was developer versus residents. He said the battle came down more to what the students really wanted. He said he thought some of the reasons why some of those properties mentioned were so vacant, was that they were rundown properties. He had over eighty units within a one-mile radius of the University, and currently, only one was vacant. He said he did not have any problems pre-leasing them because he modernized his properties and made them convenient for students. He thought it was unfair to make students push further and further out, away from campus when they had a right to walk to campus.

Mr. Reidhead said he sympathized with the owners wanting to enjoy their homes. He said he enjoyed his home; but knew that fifty to one hundred years from now, if Raytheon or someone else built there, his property would be more valuable as a rental than as an owner-occupied property. He commented that he thought the landlords needed to do their job of enforcing and making sure their tenants were being respectful. That was why on every single property rental he had, all his neighbors were given his phone number and had direct access because he wanted to make sure his tenants were being good neighbors.

Mr. Reidhead said he thought it had to be a combination of both. The more restrictions imposed on developers trying to fulfill an economic need for the students, the population, and for the market, would ultimately cost the taxpayers more money. The bill would be passed onto the students, who would not be able to afford it and would be forced to look elsewhere to rent.

Mr. Reidhead said he disagreed with a statement made earlier that taxes actually went up if neighborhoods were preserved. With the tax change, when there were renters, there was more tax on an appraised value than if it were a residential home. As more and more tenants go in and properties increase in value because they beautify and make the

neighborhood better, it was going to increase the tax base for the City of Tucson. He said he already paid taxes, but he also had a personal property tax because of washing machines that were in his rental units, that he had to pay every year. He thought another reason that had to be looked at, was safety and security. He said most his rental units had security doors and motion lights and other things to help protect the students. He said he thought the reason why many parents wanted their students to live with more than one person in a property, was that there was security in numbers.

Mr. Reidhead said obviously, in and around the University area, there were going to be parties. Once again, he thought that was the responsibility of the landlords and the police department to take care of complaints. He said he has never once had a neighbor call him to complain about what his students were doing and he not do something about it. He said, if he received a complaint, he always contacted his students to let them know what they were doing was inappropriate, and asked them to fix their behavior and be respectful tenants. He said in his fifteen-page lease it required that there was quiet time between 10:00 p.m. and 8:00 a.m. He said there were things such as red tags and violations that he charged fees for. If his tenants were red tagged or cited by the City, they would not only have to pay the City, but pay him fees personally, because he wanted his tenants to be good neighbors. He said it really had to be a combination of both. The University was going to continue to grow; it was an employment center and there was going to be a greater demand for housing that was not owner-occupied.

Mr. Reidhead said if the ordinance passed, the City would have to come up with a way to increase the density around the University in some other way. Provisions had to be made for the students, professors, and the people that would be traveling that wanted to be here. He said, if this was to be preserved as a historic neighborhood, and that was what the neighborhood wanted, he asked the Mayor and Council to give the developers an area to develop, an area to spend some money on to make it so that they could have a product for the students to build.

Mr. Reidhead said, currently, all it was doing was restricting people that were trying to build, not only mini-dorms. He said he owned a lot of studio to three-bedroom housing around the University, and only five units were over five bedrooms. The majority of his inventory catered towards students, not necessarily mini-dorms. He said it would cost him much more to take a two or three bedroom unit and modernize it to where the students really wanted to go to it. He added, it would be economically unfeasible for him, and he would have to look for somewhere else to go, because he just could not make the economics work. He said he thought there was a compromise, but not in the current form, this was not the best proposal.

Jim Clark, resident of Jefferson Park Neighborhood, said this had been a sore subject for him and his family for a number of years, and he was happy to see that something was finally being done about this. The Jefferson Park Neighborhood was clamoring to see this done because they were next on the list to have a look at the NPZ to help preserve their homes and values. Mr. Clark said he wanted to quote some of the things that were in the *Tucson Weekly* back in September, where Mr. Goodman stated he

had bulldozed a dozen single-family homes, and had built luxury apartments, which students wanted, with granite kitchen countertops and nice bathrooms. Mr. Clark said that Mr. Goodman himself recognized that he was not building homes; he was building apartments to house students.

Mr. Clark said, if one drove around in the Feldman's Neighborhood, they would see blocks of these structures. They were not homes, they were apartment buildings; and if they were built anywhere else, they would be considered an apartment building. The skirting around the R-1 single-family home was being abused to the point that it was just not fair to people who have lived in the neighborhoods for a long time. It was not fair to the people who were looking at a home, and then to find out a monstrosity was built next to it. He commented if he was looking for a home in the neighborhood and saw one of those structures go up, he would go somewhere else. He said his family had been in the Jefferson Park Neighborhood since 1938 when his grandmother bought her home new, which he has since inherited.

Mr. Clark said, in the *Tucson Weekly*, it was estimated that property values would go down twenty percent if these structures were built next to one's property. In this market, he did not know too many people that could afford that. He said he also went around the neighborhood from Grant Road to Elm Street and from Campbell Avenue to Park Avenue, and found thirty signs posted for rentals, two of which were Mr. Goodman's properties.

Mr. Clark also mentioned that in looking at the economics of it all, there were these little homes all sitting vacant. The people who owned them had to cover the cost, and the more they built these structures, the more that would occur. He said the more that occurred, the more owners were going to get into trouble, and then possibly end up forfeiting their property to this predatory building that they were seeing in the neighborhood. It was just going to propagate, keep going and going.

Mr. Clark said he very strongly favored getting the rezoning done at this time and urged the Mayor and Council to move forward with the ordinance. He said regarding the threats about Proposition 207, if the City did not enforce rules for R-1 zoning on single-family homes and allowed people to build apartments, then what was the zoning for and why did the City even have it. He stated if the City was not going to enforce it, then they should start all over. At least the ordinance was an opportunity to look at something that might curb this activity. Again he urged the Council to vote in favor of the NPZ ordinance.

Richard Studwell said he served on the committee that worked on the Design Manual. He said all the builders, investors, and developers quit the committee because the suggestions the committee made regarding tradeoffs rather than rules being extended, were ignored. He said he owned a property in Feldman's Neighborhood, which was listed in the Manual as "historic contributing." He restored it himself. He said a couple of the Mayor and Council aides recently toured his buildings. The houses he built around the University in the last ten years would easily pass muster on the Manual. He said

when he joined the committee for Feldman's he agreed he would never buy another property in Feldman's. He added he was sure there was one or two members on the Council who would be glad to run a newspaper ad if he did, but stated he was not; and that he had passed on a couple recently, that were great deals.

Mr. Studwell said he tried to do what was best for the community in working on the Manual. The Design Manual did not solve any of the problems. It was about student behavior and about the University's need for housing. He said the Manual had a lot of flaws. It was the typical layering of rule upon rule that ran up costs and did not provide a benefit. He said if the Mayor and Council heard enough of the neighbors at the evening's meeting, one of them was going to complain that it would cost two hundred dollars minimum to apply for one of the hearings. What they did not realize was that changing one window in one house was going to cost them three times that.

Mr. Studwell said if this law had been in effect, Casa De Los Niños would not, could not, have been built. The U of A should have been in the discussion; they should be partners and were a very important institution in the community. They were not even at the table. He said he disagreed with comments about property values decreasing and added that the *Tucson Weekly* was not a recognized appraisal firm. He said he dealt in real estate investment and had for all his life. The property values in the University area have increased, which were some of the fastest increases in the City. There was a growing protest amongst members in this neighborhood as they found out about this rule, and the Mayor and Council were seeing more and more letters coming in. He said the people were saying "no."

Mr. Studwell commented that the folks who talked about Proposition 207 were absolutely correct; this was going to cost the City a lot of money. He said, when the City was sued, the film of the evening's proceedings would be shown over and over during someone's campaign. He said the Mayor and Council have been warned by a lot of people; this was more anti-business, anti-U of A, and anti-common sense legislation. He urged the Mayor and Council to send this back to the committee to have this Manual fixed, so it would actually address the problems and come up with a workable solution that would be beneficial for the neighbors and for the future of the University. He said whatever the Mayor and Council did, he was not buying any properties in Feldman's, so he was not gaining by virtue of how this manual turned out other than as a citizen of the community.

William Ford spoke in support of the adoption of the Design Manual. He said he thought it made good, positive sense. He said there was an approved NPZ for which a design manual was needed. The manual was not perfect, but it was not over-taxing to development in the interior sensitive living environments. He said it was a practical starting point. Everyone thought the Design Manual was carved in stone; but the Manual can be adjusted, can be changed and was a good, practical starting point.

Mr. Ford said the Feldman's Design Manual seeds the next era of positive outgrowth of the City of Tucson's original 1989 *University of Arizona Area Plan*. He

said the *Plan* mirrored the NPZ in regards to living environments and in regards to that component of the *Plan*, which called for protection. It was a place and venue for faculty, visiting scholars, graduate students, and people who wanted to live around the University, it was a living environment. He said the University had to have living environments surrounding it. He said he did not think anyone wanted the area to be one hundred percent rentals and hodge-podge student housing. Things had to be planned, and a plan was lacking. He said they started out with a plan in 1989 and he, for one, intended to get the City back on that road.

Mr. Ford said neighborhood activists planned to use the NPZ to realize the continuing vision for the U of A area. Dynamic leadership, community-based, can and would embolden the *U of A Area Plan* of responsible development in the twenty-first century. He said the U of A area needed protection of its surrounding cultural resources. A good *U of A Area Plan* also needed responsible answers to business pressure. It needed exceptional design and a complement to a very fine, exceptionally renowned University that deserved everything that they could give it. He said he intended to push the definition, once and for all, of how they addressed and located the University's and business needs in a manner that also protected neighborhoods. Mr. Ford stated he did not fault what developers like Michael Goodman had done, any more than he did the University for tearing down resources, as was seen in Feldman's. He said he thought everyone had learned their lesson, and everyone knew that good things could be planned and were going to happen.

Karolyn Kendrick stated she was a resident of Feldman's Neighborhood where she has lived since 1991. She asked the Mayor and Council if the plan was to continue comments to the next week.

Mayor Walkup replied he thought that was probably going to be the outcome, but was not sure. He said when Ms. Kendrick was finished with her comments; he was turning it over to Council Member Uhlich for further discussion. He stated those who did not have the opportunity to speak at the evening's meeting would certainly get a chance to speak the following week and would be the first on the list.

Ms. Kendrick asked all the people who supported the NPZ overlay to raise their hands so that the Mayor and Council could see the show of hands. She said she heard from many people, that Feldman's was against the U of A and that they were anti-U of A. She stated she had heard so many things that she wanted to talk about. Ms. Kendrick said, Feldman's has always been supportive of mixed-use development in appropriate locations, and had pinpointed locations in their neighborhood where legitimate developers, who were not bottom-fishing the *Land Use Code*, should build because they wanted that development in their neighborhood. She said she wanted give the rest of her time to Diana Lett, who had a letter from many more neighborhood residents who were not able to be in attendance.

Diana Lett, Vice President of the Feldman's Neighborhood Association, said she was the official speaker for the Association, Co-Chair of the Neighborhood's

Preservation Committee, member of the Feldman's Design Manual Committee, and was a member of the NPZ Stakeholders' Committee, sometimes known as the University Area Pilot Committee. As a member of those committees, she devoted countless hours over the past two years to the process that resulted in the Feldman's Design Manual. She said she was very committed to the Manual, as was the Feldman's Neighborhood Association.

Ms. Lett stated it was their request that the Mayor and Council do two things to support the Design Manual. First, they asked that the Mayor and Council postpone any vote on the Design Manual until Council Member Trasoff could be present, as she represented the majority of Feldman's Neighborhood. Secondly, when the vote took place, they would urge the Mayor and Council to approve the Design Manual as recommended by Peter Gavin, the Zoning Examiner. Ms. Lett said there were so many reasons to support the Manual. One was a letter, which she submitted to be part of the official documentation for the hearing, that sixty members of Feldman's Neighborhood Association had affixed their names, signatures, and consent via the Internet.

Ms. Lett said the support of the Neighborhood Association for the Manual came from a variety of different angles, and said she would address only those issues the Mayor and Council had not already heard. She said the Manual was prepared at the Council's request which was made in the awarding of the NPZ enabling ordinance and in directives to staff of the Planning and Development Services Department. She commended staff for doing an awesome job of pulling together disparate threads of opinion in the community regarding the future of Feldman's Neighborhood in particular, and the historic neighborhoods in general. She said the resulting product was a compromise, and as such, it did not perfectly represent the views of either neighborhood residents or developers which was a good thing; it meant that staff did their job. The Manual was part of a larger vision for the future of Tucson, which had been articulated by the current Mayor and Council. She said the Council spoke of the need for intensification of development in appropriate locations downtown, along arterials, and along the modern streetcar route. The Council also spoke of balancing densification with preservation of historic buildings and neighborhoods.

Ms. Lett stated, the Feldman's Design Manual was originally slated for consideration simultaneously with the Infill Incentive District to symbolize the balanced, thoughtful approach to development within Tucson's urban core. She said she believed that, from a purely business perspective, preserving their quality of life in Feldman's was a winner. Their charming, historic homes were attractive to buyers willing to spend tens of thousands, and in some cases, over a hundred thousand dollars on upgrades and restorations. Historic neighborhoods also attracted young, urban professionals who paid for nice downtown restaurants and other businesses.

Ms. Lett said when the Mayor and Council considered the data that had been presented about how the U of A was growing, and how it should justify the bulldozing of historic neighborhoods to create denser student housing, she wanted the Council to keep some facts in mind. The U of A chronically ran a demand for on-campus housing, which

was twenty-five hundred to five thousand beds over the supply, and did not translate directly into a demand for rental housing near the University. She said a lot was heard about the vacancy rate in Feldman's and in Mr. Goodman's properties. Generally, at this time, the vacancy rate was about ten percent. She said that was not anything close to a tight housing market. Ms. Lett stated what that meant for the Mayor and Council was that they had some time to proceed to look at the issue of how to plan student housing in a thoughtful manner. She said they did not need to be rushed into making decisions that appeared to be pro-business on the surface, but possibly were not pro-business. She believed that the real pro-business and pro-community stance was to support the Design Manual, and hoped the Mayor and Council would do so.

Mayor Walkup said that was the conclusion of the one hour public hearing, and called on Council Member Uhlich for discussion on the next course of action.

Council Member Uhlich said she confirmed with the Mayor that they had additional cards from people wishing to speak, and also Council Member Trasoff who represented the area. She assured those who had already spoken that a full transcription of the evening's public hearing would be made available to Council Member Trasoff, and that she would be present at next week's meeting.

Council Member Uhlich suggested that the public hearing be kept open until the following week to allow for further testimony and then the Mayor and Council could vote on the item. She said she wanted to make some comments that might give some indication of her inclination at this point. She said there was no doubt that the character of development they were seeing in the area and in other areas around the University were not only affecting the historic character of the neighborhoods, but genuinely affecting the health and safety of all of its residents which included homeowners, student renters, and people in the area. There were limitations to what the Police Department could offer and do; sometimes it boiled down to the configuration of the housing. She said, she really appreciated the testimony offered that noted how housing was built and placed affected the kind of issues that were raised. She said she had no doubt they had ample evidence to that effect.

Council Member Uhlich said she had managed and developed housing herself, and there were reasons why, at the Primavera Foundation, they did not do scattered site transitional housing. They did scattered site single-family housing; but when people were coming and going, it was very difficult to manage and costly to manage well. She said she had to ask herself whether this was really an issue of throwing up hands and saying it was just about behavior, when property management had a role to play. She said her door would stay open this week, and she wanted to hear more ideas and opportunities about how some of these issues could be addressed. She said they would continue the hearing if she had the support of her colleagues to do so. However, she said she thought the notion that nothing could be done, was very wrong-headed.

Council Member Uhlich said she could think of at least three property managers that she would love to introduce, some of the owners who were renting in the area, were

Dick Dinaza, Michael Finkelstein, and Melanie Morrison. She said, they were people who rented a whole lot of housing, were partners with the City in managing that housing, and made sure that their properties were managed well. She said how housing was configured and how the Mayor and Council handled it, had an affect on the character, the health, and safety, as well as the historic character, of these areas. She said those were her opinions, and obviously they would have other thoughts and comments and would continue the conversation next week.

Council Member Uhlich said there were some questions raised, regarding which she would like help from staff in terms of some of the legal issues. She asked Michael Rankin, City Attorney if he thought they should have any portion of the session in Executive Session, and suggested they could discuss that in the agenda meeting the next day. She said she wanted to make sure that her colleagues had full opportunity to ask legal questions that might arise, which would most appropriately be addressed in Executive Session.

Michael Rankin, City Attorney, stated he was not available to attend the agenda meeting, but suggested that, if the item was continued for another week as part of the motion, it be agendized in such a way that they had the option of going into Executive Session if needed.

Council Member Uhlich said that was something she would include in her motion as well. She said there were a couple of specific questions that she did not think they were prepared to address regarding commercial properties in the area and the boundaries of the district. She said she knew Ernie Duarte, Planning and Development Services Department Director, could help with that.

It was moved by Council Member Uhlich, duly seconded, to keep the public hearing open for one additional week.

Mayor Walkup asked if there was further discussion.

Council Member Glassman said he appreciated all the neighbors coming out and sharing their thoughts. But noticeably absent from everything that had been talked about that evening, was representation from the U of A. He said obviously, being in Ward 2, they were not as close to this issue as representatives of Wards 3 and 6, that would be immediately impacted.

Council Member Glassman said something he wanted to add to the conversation and something he would like to ask since they were going to be voting on the ordinance, and having been elected by the citizens of Tucson, was that perhaps over the coming week the City Manager's Office, Ward 3, Ward 6, and maybe even the Mayor's Office, could reach out to the University of Arizona to include them in something as important as this issue that was happening. He commented that when he worked for Congressman Raúl Grijalva, they would always talk about the three-legged stool; and the three-legged stool in this situation was obviously the University, the neighbors, and the City. He said

he had a hard time understanding how they were going to come up with a long-term solution unless they had all three legs in the room together at all times, including at hearings, like the present public hearing.

Council Member Uhlich said she was glad Council Member Glassman raised the issue, and said the Mayor's Office was involved with the Ward 6 and Ward 3 Council Offices in conversation with the University. She also said that the Mayor graciously agreed to continue by convening a final meeting prior to next week and if they could, they would request that other precedent and make sure that they had someone present as well as in those meetings.

Council Member Glassman said he wanted to be remiss, because actually in this case, as Council Member Uhlich pointed out, it was a four-legged stool, because there were developers and business people as well. He said the Mayor and Council had to be cognizant of the long-term viability of the whole area and wanted to make sure they heard from all four groups which included the process that everyone had gone through together, so that the entire Council and community would know what dialogue had taken place.

Council Member Scott asked if the University had a student policy regarding off-campus behaviors. She said she guessed no one was necessarily prepared to answer that question. However, as part of the University participation, she wanted to know if they had any kind of rule book that referenced a kind of off-site policy. She thought that would potentially have an effect; and if they did not have a policy, she said maybe they should be asked to generate one so it would be a part of the conversation. She said there should be some sort of interaction amongst all of the players, and thought that part of it could be addressed by the host, who was the University.

Council Member Leal said red-tagging and managing students had been discussed a lot. He said he knew when they were looking at licensing tobacco sales, the owners of the establishments wanted the fines to go to the clerks who might break the law. He said Mayor and Council realized the owners were using their clerks to insulate themselves, so they thought it was a good idea to have the fines applied to the owners. In a similar vein, he said he wanted to see about applying red-tagging to property owners and not just the tenants.

Council Member Leal said he would also like to better understand the viability of public nuisance statutes. Some years ago, the City was able to get the State to expand public nuisance statutes. There were people that lived in Ohio renting out houses to crack dealers or motels renting to prostitutes. They did not care what was happening as long as the rent came in. Basically, those people understood that if they kept doing that, public nuisance statutes would apply and their property could be condemned. He said he thought they needed to see what viable tools there were, not just for the tenants, but also for the owners themselves who were really the ones profiting from this. He said he thought they should be the ones who, in the end, should ultimately be held accountable.

He asked for some correspondence from staff to explain again the viability of both those ideas.

Council Member Uhlich stated she thought deliberations could continue next week.

Mayor Walkup said one last comment he had was that conversations he had with Council Member Uhlich almost two years ago were about this whole issue. He said Council Member Glassman properly identified that the open switch was the University, and their discussions about planning to move to fifty thousand students. He said this issue was going to be with the City for a long time, and one of the things that they still had to work out was the whole issue of preservation and densification, two words that could be said in the same breath. They had to address the issue of how they were going to manage the areas surrounding the University. The University was going to be there, and their enrollment was growing to fifty thousand. He said he thought they all would like to see some student housing along the light rail and moving toward the downtown area. They had some ultimate possibilities and he really wanted to see that, because he hated to pass judgment and just leave it as a hanging issue. He thought it was something that really needed to be addressed.

Council Member Uhlich thanked Mayor Walkup, and said she appreciated his comments. She said he had made it very clear that he was not be ready to move on this element without moving on the Infill Incentive Zone, which they did swiftly. She said they intended to bring them to the table together, as someone noted, to demonstrate the balance they were striking, but they had adopted the Infill Incentive Zone. She added there were some ideas brought up by infill developers and she appreciated that, including things like transferable development rights. However, each time they looked further, they realized it might actually be a disincentive to densification. She said they have done what they could to build incentives into that zone, particularly along the corridors where they could leverage transit and other things. But, again, she said there would be continuing opportunities over the coming week and obviously in the coming months to bolster the Infill Incentive Zone so they could continue to find the right balance, and take the right steps on both of those tracks at the same time.

Council Member Glassman said he had one other question for staff, and asked for an update or they could talk about it later in the week. He said he had a nice visit with Tom Keating, a former classmate of his from undergraduate work at the University of Arizona. He said Mr. Keating brought up an idea regarding incentivizing density, which was sort of what the Mayor was saying, on the exterior portions of neighborhoods along the major thoroughfares, while obviously ensuring that the neighborhoods and the core were being protected. He asked how that all played into the dialogue, and if it would be incorporated into this concept. He also asked if that was discussed, and where they were, because he understood they were butting up against the legal ramifications of doing anything. At the same time, he asked where they were as far as the long-term solution that the Mayor spoke of regarding density along the corridors and being cognizant of

density and retail in the areas where even the neighbors agreed it would be appropriate for that to go.

Ernie Duarte, Planning and Development Services Department Director said Council Member Uhlich was correct in that they had already taken some action in regards to the Infill Incentive District. He said it was a balance to what they were attempting to do with the Neighborhood Preservation Zone. He called on Jim Mazzocco, Planning Administrator, to address the question more specifically.

Jim Mazzocco, Planning Administrator, Planning and Development Services Department, said this was a balancing act as the pilot overlay that started back in 2006, and worked its way into 2008, when the NPZ enabling ordinance was adopted, and this year adoption of the Infill Incentive District. He said that was the balancing act of trying to create some densification opportunities. They also had another fairly large densification opportunity that the Mayor and Council had given direction on, regarding the Downtown Links and the Warehouse District area, where staff had been directed to do a rezoning of the area for infill purposes. That was an area, generally speaking, between Fourth Avenue and Stone Avenue, and Sixth Street and Toole Avenue. He said in both the Downtown Infill Incentive District and the Downtown Links area, neither of them had the kinds of historic preservation problems faced in the area of Euclid Avenue and Speedway Boulevard. Those were areas that the City might have to consider at some point, but what they could tell along those streets, they were covered with contributing structures. Contributing structures were the part of a National Registered District that gave it its registration as a Historic District. Mr. Mazzocco said whether they went after those areas at some point in time was a policy decision that had to be made. But, currently, the areas that were fairly easy to go after were the Downtown Infill Incentive District and the area around Downtown Links.

Council Member Glassman said he had a follow-up question, and asked if the plan that was going to be considered followed the theory that the Mayor was talking about, of providing for density along the major streets while protecting the core, or if it would just overlay the entire neighborhood. He said he was talking about the Feldman's area.

Mr. Mazzocco said in the corridors where Feldman's was, Euclid Avenue and Park Avenue, the properties were mainly contributing structures, clustered in those corridor areas. He said that created an issue as to what could be done; should they go after those first which would require the demolition of contributing structures, thus, somewhat starting an issue of reducing the number of contributing structures and endangering the registration of that Historic District.

Council Member Uhlich said they needed to pan back in terms of the University area recognizing that not all corridor areas were going to be conducive to densification, but make sure that they identified larger tracts. She said this was also another thing that members of the development community had said, and in the *University Are Plan* it was to identify, even in some cases, whole blocks which were appropriate for densification.

Council Member Uhlich said when the Infill Incentive Zone was passed a couple of months ago, this was the entire piece, or at least a significant piece of addressing the densification issue, so the Mayor and Council took that step. She said the step they had not taken was the one at hand. If the balance was not held, she said she thought they were not going to achieve what they were hoping to achieve in terms of preserving the historic nature and also to make sure student housing and higher density housing was appropriately placed, structured, and managed to promote the health and safety of the community.

Council Member Leal said, aside from the location and management of the densification, he said before the overlay zone, he remembered an apartment complex built for students that was three stories tall at the edge of a historic neighborhood. One of the things not taken into consideration was the placement of the balconies. All these balconies were facing the interior of the neighborhood and on one hand, they were protected from the street, but the neighborhood had the tsunami of music and noise coming out of three stories of apartments with balconies facing toward the neighborhood. He said he did not know if, at that time, they actually looked at construction in terms of the design and where things faced, but they really needed to. As they approached the balance of densification and neighborhood preservation, unless they thought about this at that level, they would not succeed to the extent they thought they would.

Council Member Glassman asked the City Manager if, as the week went by, maybe it would be possible for to have his staff work on some type of diagram, because he kept hearing the word "densification" in certain areas. He said what he thought of, and what he would appreciate to see visually, if staff could do it, were places like Speedway Boulevard, Campbell Avenue, Euclid Avenue, and some of the core neighborhoods where they had been and walked and where he knew his friends lived, including a member of his staff, Katie Bolger. He said he could envision where density should be, where it would be great, and where people would be excited about it. He said he could also see the cores of the neighborhoods where he did not think it would be as exciting or as great to have these large kinds of things. He asked if staff could perhaps put something together for the areas that they were discussing so they could visually see where people could put retail, gas stations, stores, offices and, at the same time, where these neighborhoods were that would be protected from those types of structures, from high scale, high intensity residential. He asked if that was possible, as it might help with the discussion.

Mr. Duarte replied they could put together some displays that would be helpful to assist in the conversation they needed to have.

The motion to continue the item for one additional week was carried by a voice vote of 6 to 0 (Council Member Trasoff absent/excused).

Mr. Rankin said since they were continuing the public hearing, it was important to note that the meeting would be on November 17, 2009, in the Mayor and Council Chambers at or after 5:30 p.m.

9. PUBLIC HEARING: AMENDING THE NEIGHBORHOOD PRESERVATION ZONE

Mayor Walkup announced City Manager's communication number 572, dated November 9, 2009, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on proposed amendments to the Neighborhood Preservation Ordinance. The public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Council Member Uhlich said, since this item seemed to be associated with the previous item, she wanted to ask for guidance from staff. She asked if this item was directly associated with the previous item and was it an option to hold the public hearing open until the following week.

(NOTE: Council Member Glassman departed at 7:22 p.m.)

Ernie Duarte, Planning and Development Services Department (PDSD) Director, stated this was a companion item to the previous item, but further clarified some of the language that was already contained within the Neighborhood Preservation Zone (NPZ). Specifically, it spelled out what the appeal procedures were to decisions that would arise out of the NPZ, and also codified some fees associated with the design examiner's review. Whether or not the Feldman's NPZ went forward, action would eventually need to be taken on this item.

Mayor Walkup announced he had received two speaker cards, and he called on the first speaker.

Karolyn Kendrick, resident of Feldman's Neighborhood, said she knew staff came up with some ideas for fees on the compatibility review. She urged the Mayor and Council to consider, if the rezoning passed, it would help to stabilize the neighborhood if there was not a disincentive to refurbishing houses for modern uses. She would leave it to greater minds than hers to work out the mathematics, but she would like to see some type of graduated fees so that people who might add on four hundred square feet to get another bedroom and bathroom, and maybe an office, would not be discouraged by the fee structure. She said people building mini-dorms or larger structures had all that rental income to pay the fees. She just did not want people who were actually building for families in the neighborhood to be discouraged because they could not pay the fees.

Ms. Kendrick said she was in support of the fact that costs had to be recovered and that this had to be self-supporting. She had no doubt about that. She asked the Mayor and Council to look at how it might be graduated to encourage live-in owners and people who were renting to families.

Diana Lett, resident of Feldman's Neighborhood, echoed Ms. Kendrick's comments about keeping fees modest and reasonable. She said the most recent fee

structure in her possession started at two hundred twenty-five dollars which might sound like chump change to some, but there were some very poor people living in her neighborhood.

Ms. Lett said there were numerous representatives in her neighborhood who had repeatedly communicated to staff that they believed the fee structure should begin at one hundred dollars, especially for very small additions such as those mentioned by Ms. Kendrick. Ms. Lett said, if the Mayor and Council elected to restructure the fees for compatibility review, she urged them not to concomitantly increase the fees for appeals. She said the appeal fees were pretty reasonable; one hundred sixty dollars for staff review, plus the seventy-five dollars for notification. Again, she said, to people who were quite well to-do, that might sound like chump change, but it was not too many residents of her neighborhood or to the Feldman's Neighborhood Association. If the Association were to appeal three decisions of the design professional, their treasury would be wiped out. They were not a wealthy neighborhood and they were not a wealthy Neighborhood Association. She urged the Mayor and Council to keep that in mind as they determined what the final fee structure would be.

Mayor Walkup asked if there was anyone else who wished to speak on this item. Hearing no one, he called on Council Member Uhlich for further comments.

(NOTE: Council Member Glassman returned at 7:27 p.m.)

Council Member Uhlich said she wanted to ask staff to clarify what staff's recommendation was. She said both the initial tiering and feedback they heard was incorporated in their materials. She asked if it was suggested that they have a starting fee of one hundred dollars or two hundred twenty-five dollars.

Mr. Duarte replied staff's recommendation was contained at the bottom of page two of the Communication. It stated for improvements less than or equal to eight hundred square feet gross floor area, the fee was two hundred twenty-five dollars. For improvements greater than eight hundred square feet gross floor area, the fee was two hundred twenty-five dollars plus seventy-five dollars for each additional four hundred square feet of gross floor area, or increment thereof, not to exceed nine hundred seventy-five dollars. He said the notification fee for all projects was seventy-five dollars and the appeal of decisions of the PDSD Director, which were made to the Design Review Board, were at one hundred sixty dollars, plus the seventy-five dollar notification fee.

Mr. Duarte said, as Ms. Lett and Ms. Kendrick pointed out, the recommendations that were suggested by the stakeholders were for a smaller fee of one hundred dollars for improvements less than four hundred square feet, two hundred twenty-five dollars for improvements greater than four hundred square feet of gross floor area, plus seventy five dollars for each additional two to four hundred square feet, not to exceed nine hundred seventy five dollars, and the notification fee would remain the same, at seventy-five dollars.

Council Member Uhlich stated in the staff proposal, it said eight hundred square feet was the bottom tier, and in the stakeholder input, it was four hundred square feet, and the second tier was four hundred. She asked if staff considered three tiers, or a way of making sure the City was doing overall cost recovery, but yet allowing for the four hundred level and above. She said it seemed to her there was a potential for accommodating those very small projects with a lower cost by including a category of four to eight hundred square feet, and then a third category.

Jim Mazzocco, Planning Administrator, said staff could come back to the Mayor and Council the following week with an option that had a couple more tiers.

Council Member Uhlich said she thought that made sense because it was clear that there would be three categories, even in the blending of the two scenarios; so it would be one hundred for less than four hundred square feet, two hundred twenty-five for four to eight hundred square feet, and then above eight hundred, it might be slightly more.

Mayor Walkup stated that a reasonable course would be a motion to extend this public hearing, as well.

It was moved by Council Member Uhlich, duly seconded, to continue the public hearing to the meeting of November 17, 2009.

Council Member Leal said that, in Development Services, they had talked about full cost recovery for some time. He thought that also having citizen redress not priced out was something that was very important in our society. He said if a person could not afford an attorney, they could get a court appointed attorney and until the day they started charging people full cost recovery for those who wanted their property rezoned, he was not sure they should be so hardheaded about asking for full cost recovery for citizen redress and appeals. He added, "what was good for the goose was good for the gander," so he thought the issue Council Member Uhlich was being sensitive to mattered a whole lot.

The motion to continue the public hearing to the meeting of November 17, 2009, was carried by a voice vote of 6 to 0 (Council Member Trasoff absent/excused).

Michael Rankin, City Attorney, added as mentioned with the previous item, the public hearing was being continued to November 17, 2009, in the Mayor and Council Chambers at or after 5:30 p.m. He added that based on the discussion, staff would bring back alternative language for the other fee schedule, so they would not just try to read it into the record at the meeting.

10. ZONING: (C9-09-06) TEMPERATURE CONTROL – WEST LESTER STREET, C-1 TO C-2, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 571, dated November 9, 2009, was received into and made part of the record. He also announced this was a request to rezone property located on the south side of Lester Street, west of Tenth Street. He said the Zoning Examiner and staff recommended authorization of the rezoning, subject to certain conditions. He asked if the applicant or a representative was present.

There was no one.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Trasoff absent/excused), to authorize the request for rezoning as recommended by the Zoning Examiner.

11. ZONING: (C9-07-02) MARSON – RIVER ROAD, O-2 TO C-1, ORDINANCE ADOPTION

Mayor Walkup announced City Manager’s communication number 566, dated November 9, 2009, was received into and made part of the record. He asked the City Clerk to read Ordinance 10724 by number and title only.

Ordinance No. 10724 relating to zoning: amending zoning district boundaries in the area located on the south side of River Road, approximately one half mile east of Campbell Avenue in Case C9-07-02, Marson – River Road, O-2 to C-1; and setting an effective date.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Ordinance 10724.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal;
Vice Mayor Romero and Mayor Walkup

Nay: None

Absent/Excused: Council Member Trasoff

Ordinance No. 10724 was declared passed and adopted by a roll call vote of 6 to 0.

12. ZONING: (C9-08-16) SALPOINTE CATHOLIC HIGH SCHOOL – GLENN STREET, R-2 TO PAD-17, CITY MANAGER’S REPORT AND DIRECT ORDINANCE ADOPTION

Mayor Walkup announced City Manager’s communication number 568, dated November 9, 2009, was received into and made part of the record. He said this was a request to establish PAD-17 zoning for the property located on the southeast corner of Glenn Street and Mountain Avenue. He said the Zoning Examiner and staff recommended authorization of the rezoning. He asked the City Clerk to read Ordinance 10725 by number and title only.

Ordinance No. 10725 relating to zoning: amending zoning district boundaries in the area located on the southeast corner of Glenn Street and Mountain Avenue in Case C9-08-16, Salpointe Catholic High School – Glenn Street, from R-2 to Planned Area Development 17 (PAD-17); and setting an effective date.

Council Member Uhlich said they had worked closely with Michael Grassinger of The Planning Center and representatives from Salpointe High School. It was a great experience, and she knew it would continue. She said there was one letter of protest, and she trusted they would be able to continue to facilitate good dialogue with the neighborhood, and thanked everyone for their involvement in the efforts toward that end.

It was moved by Council Member Uhlich, duly seconded, to approve the request as recommended by the Zoning Examiner, and pass and adopt Ordinance 10725.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, and Leal;
Vice Mayor Romero and Mayor Walkup

Nay: None

Absent/Excused: Council Member Trasoff

Ordinance No. 10725 was declared passed and adopted by a roll call vote of 6 to 0.

13. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY GENERAL AND SPECIAL ELECTIONS HELD NOVEMBER 3, 2009

Mayor Walkup announced City Manager's communication number 576, dated November 9, 2009, was received into and made part of the record.

Roger W. Randolph, City Clerk, said he wanted to give the Mayor and Council a brief update as to the status of the canvass of the elections and where they currently stood. He said as the Mayor and Council knew, the City of Tucson asked Pima County to allow the City to do a hand-count audit of the election. The City Clerk's Office requested and received an Attorney General's opinion that allowed the City Clerk's Office to proceed with the hand-count audit.

Mr. Randolph said that on Saturday, City Clerk staff, in conjunction with representatives from the two major political parties, conducted the hand count audit. Five hand count audits of the early ballots were performed, one from each of the machines used to tabulate those ballots. Hand counts of eight voting areas, which represented ten percent of the City's polling place areas, were also performed. He said that was a total of approximately three point five percent of the total ballots cast for this Election and that all the results of the audits came out to be total and in complete compliance; the number of ballots they had were verified with the ballots cast through the tabulation machines, so they were very happy with that.

Mr. Randolph stated, however, during the post-election audit, Pima County identified one hundred six ballots, sixty-nine of which were City ballots that were not tabulated; they were misplaced by the board, and were located during the post election audit process. He said it was the intent of Pima County, the political party representatives, and the City Clerk's office to tabulate those ballots on Wednesday morning, so that they could have a full and correct canvass of the Election. He said based on the total number of ballots yet to be tabulated, there would be no change in the results of the races at hand; they would remain the same. Mr. Randolph said since there were outstanding ballots, it was premature, at that time, to canvass the results of the Election. He called on the City Attorney who had a motion for the Mayor and Council to consider.

Michael Rankin, City Attorney, said based on the City Clerk's update, the appropriate motion would be to continue the item to the meeting of November 17, 2009.

It was moved by Council Member Scott, duly seconded and carried by a voice vote of 6 to 0 (Council Member Trasoff absent/excused), to continue the item to the meeting of November 17, 2009.

14. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 565, dated November 9, 2009, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Glassman, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Trasoff absent/excused), to reappoint Jeffrey Handt to the Commission on Disability Issues; and the following to the Resource Planning Advisory Committee: appointment of Damion Alexander, selected from the Tucson Association of Realtors and Claire Zucker, selected from Pima Association of Governments; reappointment of Mike Baruch, Matt Clark and Tim Johnson, in the At-Large category, selected from Non-profit and Private Sector; Chad Kolodisner, in the Non-governmental entity category, significant landowner; and Joy Lyndes in the At Large category, selected from Non-profit and Private Sector.

Mayor Walkup asked if there were any personal appointments to be made.

No personal appointments were made.

15. ADJOURNMENT: 7:38 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, November 17, 2009, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 9th day of November 2009, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:sac:cs